FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.64 OF 2006

Office notes, office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.S.B.Singh for the Applicant.
Mr.R. Kate for the Respondent No.2.
Mrs. M.H.Mhatre, APP. for the State.

CORAM : R.S. MOHITE,J.
DATED : 21/2/2006.

P.C.

1. Heard.

2. Rule. By consent, rule made returnable forthwith.

3. This revision challenges an order dated 2.12.2005 passed by the Sessions Judge, Bombay disposing of the appeal against a conviction and sentence imposed by the Metropolitan Magistrate, Vikhroli for an offence under Section 138 of the Negotiable Instruments Act. The impugned cryptic and unreasoned order does not deal with the merits of the case. It appears that the appeal

has been disposed of because the appellant had deposited an amount of Rs.25,000/-. The Sessions Judge, allowed the withdrawal of the amount and directed that the balance compensation of Rs.25,000/- with interest at the rate of 18% p.a. would be cleared by the appellant on or before 31.1.2006 and which could be withdrawn by the complainant after the same was deposited. The Sessions Judge then further directed that in default of the deposit, the order of conviction would revive. Thereafter, he directed payment of litigation charges as ordered. The Sessions Judge recorded that the fine had been paid. In view of the aforesaid the conviction was stayed till 1.2.2006. He lastly directed that in case of default, the accused to surrender before the Metropolitan Magistrate on 15.2.2006 to undergo the sentence. Surprisingly, the order does not deal with any of the contentions raised in the appeal on merits. The Court of appeal is the

last court on facts and it is expected that whenever an appeal is decided reasons should be given for dismissal of the said appeal on merits. The impugned order does not indicate that the dispute was compounded. It is indeed unfortunate that the Sessions Judge has decided to dispose of the appeal in a cursory manner by giving a cryptic order which does not even touch the merits of the case. In the circumstances, the impugned order will have to be set aside at this stage itself. In the circumstances, the order passed by the Appellate court on 2.12.2005 in Criminal Appeal No.388/2005 is quashed and set aside. The matter is remanded back to the Sessions Court for fresh decision on merits of the appeal according to law. The revision application stands disposed of finally. Rule is made absolute accordingly.

4. The appeal shall be placed before the Sessions Court taking up the final

hearing board of appeals and will be placed before a judge other than the Judge who has passed the order.

5. Both the counsel state that the matter will be proceeded with on that day.

(R. S. MOHITE, J.)